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Report : Petition of J. Campau

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IN SENATE OF THE UNITED STATES.

MARCH 10, 1840.

Submitted, and ordered to be printed.

Mr. LINN submitted the following

REPORT:

[To accompany Senate bill No. 264.]

The Committee on Private Land Claims, to whom was referred the petition of Joseph Campau, make the following report:

That it appears that on the 31st of December, 1808, Pierre Bonhomme claimed a tract of 640 arpens on the river Delude, in virtue of occupancy and improvement from the year 1798, and, after a partial examination of the facts in the case, by the board of commissioners appointed to investigate claims to land in the district of Detroit, under the act of Congress of the 3d March, 1807, was postponed. The claim was revived before the board of commissioners acting under the provisions of the act of 11th May, 1820, and they decided that it should be confirmed according to particular boundaries, remarking, however, "that this tract appears to be covered by a reservation made to the Chippewa nation of Indians; it is, therefore, submitted to the revising powers if a change of the location of this tract be not necessary or advisable;" thus referring to a tract of 1,280 acres which has always been designated on the official township maps as a "Chippewa reservation." It does not appear, from the evidence before the committee, that the claimant ever occupied or improved the land claimed after the year 1811.

By the act of Congress approved the 17th of April, 1828, entitled "An act to confirm certain claims to land in the Territory of Michigan," this claim, with others favorably reported upon by the commissioners, was confirmed, with the proviso, that the act "shall not be so construed as to prejudice the rights of third persons, or to impose any obligation on the United States to make payment, or give other lands, to any claimant who may be deprived of his possessions by operation of law; nor shall the confirmation made by this act extend further than to a relinquishment by the United States of all interest in and to said lands, nor to any lands occupied by the United States for military purposes."

By the treaty made on the 9th of May, 1836, with the Swan Creek and Black River bands of the Chippewa Indians, they ceded, with other tracts, the one of two sections, near the mouth of the river St. Clair, which is stated, with the other ceded tracts, to have been reserved for them under the treaty made at Detroit on the 17th November, 1807, and to have been in their possession and occupancy from that time to the date of this treaty.

By the 2d article of this treaty it was agreed, on the part of the United States, "to pay the said Indians the nett proceeds of the sale thereof, after deducting the costs of survey and sale, and the contingent expenses attend-

ing the treaty. The lands shall be surveyed and offered for sale in the usual manner, at the land office in Detroit, as soon as practicable after the ratification of this treaty."

Mr. Tyson, one of the claimants, wrote a letter to the Commissioner of the General Land Office, dated at Detroit, July 28, 1836, the principal object of which appears to have been to notify the office that, under the before-recited alleged confirmation to Bonhomme, his assignees now consider themselves entitled to so much of the land thus ceded by the treaty of 1836 as is included in the limits of his claim. In this view of their claim the Commissioner refused to coincide, for the following reasons, to wit :

1st. Because, "at the time when the commissioners acted upon the claim, and for years before that period, the lands had been surveyed and represented on the official plats as an Indian reservation; and it does not appear by the testimony produced before the commissioners, by Mr. Bonhomme, that he ever occupied or improved the lands after 1811, while, in the treaty, it is expressly stated to have been in the possession and occupancy of the Indians since 1807."

2d. "That, inasmuch as the confirmatory act of 1828 provided that it shall not be so construed as to affect the rights of third persons, Bonhomme's claim cannot be considered as being embraced by its provisions, as its confirmation would seriously affect the interests of the Indian reservations."

3d. "That, by the treaty of May, 1836, the parties thereto being, as we are required to suppose, fully acquainted with all the facts in the case, the United States, acting as mere trustees for the benefit of the Indians, are bound to survey and sell all the lands ceded, and to pay over to them the nett proceeds of the sales; and that, therefore, the recognition at this time of the claim of Bonhomme's assignees to 640 arpens of the reservation would preclude a compliance with the treaty stipulations, and cause the interests of the Indians to be injuriously affected."

In this opinion of Mr. Brown, the then Commissioner, the Secretary of the Treasury and the present Commissioner of the General Land Office fully concurred.

And it further appears that the Commissioner of the General Land Office, in a letter addressed to the register and receiver at Detroit, under date the 22d of April, 1839, instructed them to "proceed to offer all the Chippewa reservations at public sale, in conformity to the proclamation of the President, bearing date the 18th of January last, withholding therefrom the fractional sections claimed by Campau, as assignee of Bonhomme, only in the event of a writ of injunction being obtained from the United States court, and served upon" them "for that purpose."

No information appears to have reached the Land Office that such a writ was served on the officers, although it was intimated that such would be the case.

In a communication from the Commissioner to the committee, on the 30th of January last, he recommends this claim to the favorable consideration of Congress.

The committee, after a careful examination of all the facts in the case, are of opinion that this claim is entitled to the favorable consideration of Congress, and therefore report a bill. And, as there seems to be two sets of claimants as assignees of Bonhomme, and the committee will not decide who is the rightful claimant, they report the bill for the relief of the legal representatives of Pierre Bonhomme.